IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.512 OF 2003

Manoj Bora ... Petitioner

v/s

M/s L.K.P. Shares and Securities Ltd. and anr. ... Respondents

Mr B.M. Ganu for Petitioner.

Mr Rajiv Narula i/b M/s Ravikumar and Co. for Respondent No.1.

CORAM : D.K.DESHMUKH J.

DATE : 7TH JUNE 2005

P.C.: -

1. By this petition, the petitioner challenges the award made by the Arbitral Tribunal of the Bombay Stock Exchange. By that award, the counter claim made by the petitioner has been rejected and he is directed to pay the amount of Rs.1,50,945/-. The grievance of the petitioner against the award is that the relevant bye-law of the Bombay Stock Exchange has not been considered and so far as the rejection of counter claim is concerned, he submits that the counter claim has been rejected for an invalid reason. I have heard learned counsel for both the sides. I find that in awarding claim against the petitioner, bye-law of the Bombay Stock Exchange has not been considered and the reason that has been given for rejecting the counter claim is that the claim was not made by the petitioner from October 2001 till May 2003. If the claim is not barred by the law of limitation, merely because the petitioner did not make it earlier, justice cannot be denied to him. In this view of the matter therefore, following order would meet the ends of justice.

2. The award impugned in the petition is set aside. By consent of parties, the Arbitration Department of the Bombay Stock Exchange is directed to

constitute a new Arbitral Tribunal and refer the claim made by the respondents as also the counter claim made by the petitioner to it. The Arbitral Tribunal shall decide the claim in accordance with the provisions of the Arbitration and Conciliation Act 1996 as also relevant Rules and Bye-laws of the Bombay Stock Exchange. The Arbitral Tribunal shall make the award without being influenced by the observations made in the previous order and this order. Petition is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.